

*Law Offices***OGLETREE, DEAKINS, NASH, SMOAK AND STEWART**

A PARTNERSHIP OF PROFESSIONAL ASSOCIATIONS AND PROFESSIONAL CORPORATIONS

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RALPH M. MELLOM, P. A.

*Partner*

November 18, 1983

James F. Bycott, Esquire  
Office of Regional Counsel  
Environmental Protection Agency  
345 Courtland Street, N.E.  
Atlanta, Georgia 30365

Re: Medley Site, Gaffney, South Carolina

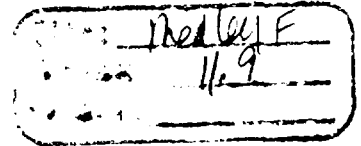
Dear Mr. Bycott:

This is submitted on behalf of ABCO Industries, Roebuck, South Carolina, in response to a letter dated October 25, 1983, from Mr. Thomas W. Devine in the above-referenced matter.

At the outset, we respectfully note a discrepancy with respect to the scope of your inquiry between the first two paragraphs in Mr. Devine's letter and the several enumerated questions. The opening paragraphs refer to hazardous substances and hazardous wastes. As you know, those terms are specifically defined in the cited statutory authority. In contradistinction to that, the several questions refer to "chemical wastes" and, even more broadly, "wastes." As indicated below, that discrepancy is germane to our response.

We have reviewed the definition of hazardous substance in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (which includes the phrase hazardous waste as it is defined in the Resource Conservation and Recovery Act and regulations promulgated thereunder) and have concluded that no such hazardous substances were ever shipped to the Medley site. ABCO Industries is not, therefore, a potentially responsible party from which to recover response and cleanup costs.

Although we believe that puts the matter to rest, in searching our records and in making inquiry of some employees we have uncovered peripheral information which may be of value to you. It should be noted that the records search did not reveal any transactions with the Medley site.

*First Atlanta Tower  
Two Peachtree Street, N.W.**Atlanta, Georgia 30383**(404) 588-1300**1200 New Hampshire Avenue, N.W.**Washington, D.C. 20036**(202) 887-0855**120 Heywood Avenue**Post Office Box 803**Spartanburg, South Carolina 29304**(803) 585-8216**3724 National Drive, Suite One Hundred**Post Office Box 31608**Raleigh, North Carolina 27622**(919) 787-9700*

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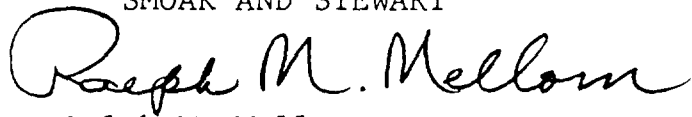
While ABCO Industries never had any agreement or contract with those operating the Medley site, according to an employee-truck driver a few drums of nonhazardous substances may have been delivered to the site in the early 1970s. The substances would have been acrylic polymers in emulsion form containing about 75 percent water. It is possible that some of the substances could also have been floor sweepings of paraffin or petroleum waxes.

Your letter indicates that drums bearing ABCO Industries labels were discovered at the site. We must note that ABCO Industries sells drummed products at an average volume of about 1,000 drums a week. It is entirely possible that some of those drums, after being emptied, passed through several people or organizations and may have ended up at the site. Although that may have happened, it does not make ABCO Industries a potentially responsible party.

Since none of the substances sent to the Medley site were hazardous, we respectfully request that ABCO Industries be deleted from the list of potentially responsible parties.

Sincerely,

OGLETREE, DEAKINS, NASH,  
SMOAK AND STEWART

  
Ralph M. Mellom

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